

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

MERITZ FIRE & MARINE INSURANCE CO.,
LTD.,

Defendant.

Adv. Pro. No. 11-02539 (SMB)

**APPELLEE MERITZ FIRE & MARINE INSURANCE CO., LTD.'S COUNTER-
DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL**

Meritz Fire & Marine Insurance Co., Ltd. ("Meritz"), by and through its undersigned counsel, respectfully submits, pursuant to Rule 8009 of the Federal Rules of Bankruptcy Procedure and Rule 8009-1 of the Local Bankruptcy Rules for the Southern District of New York, its counter-designation of items to be included in the record on appeal with respect to the appeal by Irving H. Picard (the "Trustee"), as trustee of the substantively consolidated estate of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, et seq., and Bernard L. Madoff, individually, in the above captioned adversary proceeding (the "Adversary

Proceeding”) of the *Stipulated Final Order Granting Motion to Dismiss Complaint* (the “Final Judgment”) before the United States Court of Appeals for the Second Circuit.

**COUNTER-DESIGNATION OF ITEMS TO BE
INCLUDED IN THE RECORD ON APPEAL**¹

Meritz may rely on some or all of the items designated for the record on appeal by the Trustee in the *Trustee’s Statement of Issues to be Presented and Designation of Items to be Included in the Record on Appeal*, dated March 28, 2017 [Adv. Pro No. 11-02539 (SMB), ECF No. 106]. Meritz hereby designates for inclusion in the record on appeal the following items:

Designation No.	Date	ECF No. (APN 11-02539)	ECF No. (APN 08-01789)	Docket Text
1	5/14/2012	23	-	Motion to Join <i>Joinder by Meritz Marine & Fire Insurance Co. Ltd. in Opposition to the Trustee's Application for Expedited Initial Disclosures Or, Alternatively, to Require Certain Notices</i> (related document(s)15) filed by Seong H. Kim on behalf of Meritz Fire & Marine Insurance Co. LTD.. (Kim, Seong) (Entered: 05/14/2012)
2	4/7/2016	-	13070	Letter <i>on Behalf of the Subsequent Transferee Defendants in Response to Mr. Sheehans Letter dated April 7, 2016</i> (related document(s)13051) Filed by Franklin B. Velie on behalf of Bank Austria Worldwide Fund Management Ltd.. (Velie, Franklin) (Entered: 04/08/2016)

RESERVATION OF RIGHTS

Meritz expressly reserves the right to: (i) supplement, amend, or modify the designation of additional items for the record on appeal, (ii) adopt the designation of any items designated or counter-designated by any other appellant, cross-appellant, appellee, or cross-appellee to any of

¹ Items designated include all exhibits and submissions attached thereto and, as to hearing transcripts, any and all documents admitted into evidence.

the appeals or cross-appeals from the Final Judgment (iii) move to strike items designated by any party as necessary or appropriate and (iv) present a counterstatement of issues on appeal in its appellate brief(s) (including any brief joined by Meritz or otherwise applicable to this Adversary Proceeding).

Dated: April 11, 2017
New York, New York

**SHEPPARD MULLIN RICHTER
& HAMPTON LLP**

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– and –

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